IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.61 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.Samir Sawant i/by P.V.Gond for the applicant.

Ms.Rubeena Gonsalves for Respondent no.1.

Mr.S.S.Pednekar APP for the State.

Coram : R.S.Mohite,J

Date : 7.4.2006.

PC

1. Heard both sides. This is an application for condonation of delay of 97 days in filing the revision. On perusal of the application, it is seen that the applicant had to visit the native place of the accused in Bihar and applied for certified copy of the electoral list which indicates the age of the accused. He obtained the same on 31.1.2006 and thereafter, filed this application on 23.3.2006. In my view in the interest of justice, delay has to be condoned. Hence, delay is

condoned. Application stands disposed of.

(R.S.Mohite,J)

REVISION APPLICATION 151/2006

1. This revision challenges the order dated 15.9.2005 referring the matter of the present respondent to the juvenile board for the trial. There is a dispute regarding the age of the accused. Ossification test so also electoral roll indicates that he is not a juvenile. As regards 2 school leaving certificates, they indicate different dates of birth. Advocate for the respondent had sought to explain the same by stating that, that was a bonafide mistake because the dates were taken by successive entries of 2 students. It appears that the Court has passed the impugned order on the basis of un-proved documents.

2. In the circumstances, rule. Interim stay of the impugned order dated 15.9.2005. Additional Sessions Judge to proceed with the trial and to first record the evidence which may be produced by the prosecution relating to the age of the accused in order to determine whether he is a juvenile. All parties to have a right to cross-examine the witnesses relating to the age. After such evidence is completed, the respondent will be at liberty to file a fresh application for referring the matter to the juvenile justice board and such an application will be decided by the Sessions Court on the basis of oral and documentary evidence led. Papers be sent back by the juvenile justice board on urgent basis. APP states that if the documents relating to age produced by the Complainant and the accused are handed over to the investigation officer for

verification, after making verification evidence relating to the same will also led by the prosecution relating to these documents.

(R.S.Mohite,J)